

## **REMARKS**

Claims 1 – 7, 9 – 18, and 20 – 23 are in the application. Claims 1, 9, 20, and 23 are currently amended; claims 2 – 6, 21, and 22 are withdrawn; claims 8, 19, 24, and 25 are canceled; and claims 7 and 10 – 18 remain unchanged from the original versions thereof. Claims 1, 20, and 23 are the independent claims herein.

No new matter has been added to the application as a result of the amendments submitted herewith.

Reconsideration and further examination are respectfully requested.

### **Claim Rejections – 35 USC § 112**

Claims 9 – 11 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In reply thereto, claim 9 is currently amended to depend from claim 1. Accordingly, claims 9 – 11 depend from currently depending claims.

Applicant therefore requests the reconsideration and withdrawal of the rejection of claims 9 – 11 under claims 35 U.S.C. 112, second paragraph.

### **Claim Rejections – 35 USC § 103**

Claims 1, 7, 9-18, and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al. U.S. Patent No. 6,249,775. This rejection is traversed.

Applicant notes that claim 1 relates to a method to facilitate analysis of a commercial mortgage backed security portfolio including determining base information associated with a commercial mortgage backed security portfolio associated with a

plurality of mortgage loans, wherein the portfolio is associated with a plurality of credit rating categories and each of the plurality of credit rating categories of the portfolio is associated with a corresponding category size; determining information associated with an additional mortgage loan to be added to the portfolio in accordance with a contribution of the additional mortgage loan to the portfolio, including at least one desired profitability value for the additional mortgage loan, wherein the additional mortgage loan is associated with a plurality of credit rating categories and each of the plurality of credit rating categories is associated with a corresponding category size. The method further includes calculating the loan spread associated with the additional mortgage loan in accordance with a contribution of the additional mortgage loan to the portfolio; calculating a combined profitability of the portfolio and the additional mortgage loan based on combined category sizes for the plurality of mortgage loans of the portfolio and the additional mortgage loan; and transmitting to a user terminal at least one loan spread value associated with the additional mortgage loan in accordance with the contribution of the additional mortgage loan to the portfolio via a communication network.

Applicant notes that the claimed method clearly includes calculating a combined profitability of the portfolio and the additional mortgage loan based on combined category sizes for the plurality of mortgage loans of the portfolio and the additional mortgage loan. Furthermore, Applicant respectfully submits that claim 1 is representative of the independent claims 1, 20 (related to an apparatus), and 23 (related to a medium storing instructions adapted to be executed by a processor).

Applicant notes that the pending Office Action cites and relies upon Freeman for allegedly disclosing the claimed aspect of “calculating a combined profitability of the portfolio and the additional mortgage loan based on combined category sizes for the plurality of mortgage loans of the portfolio and the additional mortgage loan”. In particular, the Office Action cites Freeman, col. 13, ln. 50 – 65 and col. 14, ln. 15 – 25 for disclosing the claimed aspect of calculating a combined profitability of the portfolio and the additional mortgage loan. Applicant notes that Freeman specifically discloses,

By utilizing the EWS, a mortgage originator can perform portfolio analysis and ascertain which product type, program, type of underwriting, property type, type of customer, origination channel, etc. is at risk, without waiting for the mortgages to actually mature and enter default. The only constraint is the amount of data attributes that the mortgage loan originator keeps on any customer over time, which for the purposes of the present invention may be two years. The mortgage originator can then dynamically adjust the flow of origination by altering any credit criteria derived from a particular attribute.

The EWS 34 constitutes the dynamic component of the underwriting concept of the present invention. With this concept, the decision maker can estimate improvements in credit quality for each specific type or amount of change in a criteria, i.e. he or she can calculate the marginal contribution of any attribute on record.

More specifically, the forward looking feature of the EWS component of the invention attempts to forecast the likelihood the borrowers will enter a 90+ days past due delinquency on their mortgages. This condition--the occurrence of a 90-day past due delinquency--is defined as a "bad" condition relative to any loan. The EWS calculates the probabilities of bad conditions occurring by combining loan information with the credit bureau's current behavioral score for the given borrower. In other words, the EWS combines the borrower's current mortgage status (default status and age) with a forecast that is based on the borrower's performance on other obligations and uses this information to forecast the bad condition. The EWS system makes three major assumptions:

The future performance pattern of defaults will be the same as in the past;

The future performance depends upon the current loan characteristics and is dependent on past performance only through the credit bureau scores. Therefore, the EWS also carries all the assumption of the credit bureau's score that was used; and

The EWS employs a logistic regression model to accurately and sufficiently predict default behavior. (emphasis added) (See Freeman, col. 14, ln. 49 – col. 14, ln. 21)

Applicant respectfully submits that Freeman fails to disclose the claimed “calculating a combined profitability of the portfolio and the additional mortgage loan based on combined category sizes for the plurality of mortgage loans of the portfolio and the additional mortgage loan” since Freeman, as cited and relied upon by the

Office, discloses predicting future performance (or non-performance) based on a borrower's loan past information and a credit bureau's current behavioral score for the borrower. However, contrary to the pending claims where the "additional mortgage loan" is "to be added to the portfolio" (see, for example, claim 1), the other obligations of the borrower associated with the credit bureau score are not disclosed or suggested as being added to the mortgage loan (or portfolio). In fact, the borrower's credit score does not relate to the mortgage loan. That is, Freeman clearly differentiates between the mortgage loan and the borrower's other obligations by explicitly referring to the separate and distinct items associated with the credit bureau score as "other obligations".

Accordingly, Applicant respectfully submits that the cited and relied upon Freeman does not disclose that for which it was cited and relied upon for disclosing. The disclosure of Freeman therefore fails to render claim 1 obvious.

Therefore, Applicant respectfully submits that claim 1 is patentable over the cited and relied upon Freeman under 35 USC 103(a) for at least the reasons discussed above. Furthermore, claims 7 - 18 depend from claim 1. Applicant respectfully submits that claims 7 - 18 are patentable over the cited and relied upon Freeman for at least the reasons discussed above regarding claim 1. Accordingly, Applicant requests the reconsideration and withdrawal of the rejection of claims 1 and 7 -18 and the allowance of same.

Claims 20 and 23 are worded similar to claim 1 regarding the additional mortgage loan to be added to the portfolio. Applicant respectfully submits that claims 20 and 23 are patentable over the cited and relied upon Freeman for at least reasons similar to those presented hereinabove regarding claim 1.

Accordingly, Applicant requests the reconsideration and withdrawal of the rejection of claims 20 and 23 and the allowance of same.

### **C O N C L U S I O N**

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

Respectfully submitted,

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